

ARTICLE APPEARED
ON PAGE I-33

LOS ANGELES TIMES
11 January 1985

But Way Is Left Open to Challenge Broadcast Licenses

FCC Staff Rejects CIA Complaint Against ABC

By DAVID CROOK, *Times Staff Writer*

Leaving the way clear for government agencies to challenge the news media's fitness to hold broadcast licenses, the staff of the Federal Communications Commission Thursday dismissed a controversial CIA fairness doctrine complaint against ABC News.

The FCC staff ruled in Washington that the Central Intelligence Agency had failed to establish its claim that ABC had engaged in deliberate news distortion with its story of illegal CIA activities involving a now-bankrupt Honolulu investment firm. The staff found no ABC violations of either the FCC's fairness doctrine or its personal attack rule.

"The CIA's complaint provides no basis for commission action," wrote James McKinney, chief of the FCC's mass media bureau, in the nine-page decision.

The CIA's "allegations fail to establish prima facie complaints sufficient to initiate a commission inquiry or sanctions," McKinney continued.

In Sept. 19 and 20 "World News Tonight" broadcasts, ABC charged that the CIA had engaged in illegal arms shipments, attempts to destabilize the economies of a number of foreign countries and a plot to

murder an American citizen.

ABC retracted the murder charge on Nov. 21, the day that the CIA filed the first fairness doctrine complaint ever against a network by a federal agency.

McKinney ruled that the CIA had no case because newscasts are exempt from the FCC's personal attack rule and that the intelligence agency had failed to show that the disputed broadcasts "involved discussion of a controversial issue," a prerequisite for a fairness doctrine complaint.

Significantly, however, the FCC ruling left open the door for other government agencies to file similar complaints challenging broadcasters' licenses. In a footnote to the decision, the staff concluded that FCC rules do not preclude government agencies from standing before the commission.

Bob Gurss, an attorney with the Washington-based Media Access Project, which filed comments opposing the CIA complaint, said that the ruling has a "precedential value . . . that leaves the door open for agencies to do in the future exactly what the CIA has done."

New York libel attorney Floyd Abrams said the FCC action confirmed that the CIA's complaint

was "frivolous and wholly unsupported in law. If anything, the FCC could have gone further in rebuking the CIA for instituting an action so constitutionally infirm as well as so plainly inconsistent with the Federal Communications Act."

CIA lawyers were studying the FCC ruling Thursday, and the agency had no comment. A spokesman said that the CIA had not determined whether it would appeal the staff ruling. It has 30 days to take its case to the full five-member panel.

The CIA had complained that ABC aired the disputed reports without attempting to verify them. The agency was disturbed especially by the claim of former prison guard Scott T. Barnes that he was made privy to an agency plot to kill Honolulu investment counselor Ronald R. Rewald. Two months after the initial broadcasts, ABC management concluded that Barnes' story could not be substantiated and retracted it.

The FCC staff did not address the issue of ABC's accuracy of reporting.